

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATIONS No 76 and 77 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

SHIVAJIBHAI

Versus

ASHWINKUMAR NANDLAL MASHRANI

Appearance:

MR DT SONI for Petitioners
MR PV HATHI for Respondent No. 1
Mr M A Bukhari, APP for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 08/04/97

COMMON JUDGEMENT

These two Criminal Revision Applications are preferred against the order dated 21.1.1984 passed by the learned Judicial Magistrate First Class, Lathi, District Amreli, whereby the learned Magistrate rejected the accused petitioners' application for rejecting the complaint on the ground of want of jurisdiction.

2. It may be stated that initially, by order dated 30.8.1982, Judicial Magistrate First Class, Lathi, returned the complaint to the complainant on the ground that the said court has no jurisdiction as the transaction had taken place at Unjha, District, Mehsana. These Revision Applications were filed against the said order before the Sessions Judge, who accepted the same and referred the matter back to the JMFC, Lathi. The petitioners preferred Revision Applications before this Court which were registered as Criminal Revision Application No. 1296 and 1297 of 1983. These Revision Applications were, however, withdrawn with liberty to raise the question of jurisdiction before the JMFC. The learned JMFC rejected the application by a non-speaking order.

3. I have heard the learned Advocate for the applicants. There is an allegation of criminal misappropriation and of criminal breach of trust. It is not in dispute that the transaction has taken place at Unjha. There is nothing in the complaint to show that any part of the transaction took place outside the jurisdiction of Lathi. The learned Magistrate has not considered this aspect of the case. Thus, in my view, in view of sub-section (4) of section 181 of the Criminal Procedure Code, the court of JMFC has no jurisdiction to entertain the said complaint.

4. In view of the aforesaid, both the Criminal Revision Applications - 76/84 and 77/84 are allowed and the order of the learned Judicial Magistrate, Lathi dated 21.1.1994 is quashed and set aside in both the Revisions. The complaint may be returned to the complainant for presentation before the appropriate court.

Rule made absolute in both the Applications.

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